

CORRES CONTROL
OUTGOING LTR NO

EG&G ROCKY FLATS

JOE ORDER# 47001

94 RF 08874

EG&G ROCKY FLATS INC

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August 24 1994

94 RF 08874

Jessie M Roberson
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Environmental Restoration
DOE/RFFO

RESPONSE TO COMMENTS FROM REGULATORS ON THE OPERABLE UNIT (OU) 1 HOT SPOT
PROPOSED ACTION MEMORANDUM (PAM) AND REQUEST FOR DIRECTION - SGS 455-94

Action Request for direction

EG&G Rocky Flats Inc (EG&G) at the direction of the Department of Energy/Rocky Flats Field Office (DOE/RFFO) is currently following the proposed modifications to the current Interagency Agreement (IAG) for expedited actions in establishing a timetable for removing the OU 1 hot spots. If the proposed IAG language is followed removal activities should begin October 6 1994. In a meeting with EG&G and the DOE/RFFO OU 1 Project Manager on August 11 1994 the projected start date of October 6 1994 was determined to be reasonable and acceptable if the proposed IAG language is followed and the Environmental Protection Agency (EPA) approves the Sampling and Analysis Plan (SAP).

If authorization is received from DOE/RFFO to disregard its previous direction to follow the proposed IAG requirements removal activities could start as soon as September 21 1994. This date would be contingent upon receiving the EPA's approval of the SAP and would include DOE's response to relevant regulatory agency comments on the PAM. The EPA's approval of the SAP is required per 40 Code of Federal Regulations (CFR) §300.415 (b)(4). EG&G does not expect prompt approval of the SAP if all of the EPA's comments on the PAM are not addressed and the PAM is not issued as final.

The regulatory agencies' comments on the PAM fit into three categories: those that are consistent with requirements in the proposed language; those that are additional to the proposed language (e.g., analysis of relative costs of alternatives); and those that are generally consistent with the proposed language but expand the scope of the requirement (e.g., detailed evaluation of risks vs. brief summary of risks; report of complete analytical results versus brief summary of the data for the site; and a detailed ARARs identification for the OU versus ARARs specifically related to the proposed action).

Some of the comments received were related to information that EG&G had provided in the PAM that was not specifically required. As a response EG&G recommends removing that information (this would be consistent with the State's specific recommendation regarding review of alternatives). It should be noted that while most of the State's comments were generally consistent with the proposed IAG language most of the EPA's comments were not.

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REPLY TO RFP CC NO

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CLOSED

R APPROVALS *no*

FIG & TYPIST INITIALS

RZH jlm

There are several options for proceeding

- 1 **Complete response to comments and full compliance with proposed language** This would result in removal actions commencing October 6 1994. This option minimizes contentious discussions with the regulatory agencies and could be used to demonstrate the excessive length of the proposed process but sets a precedent for any further removal actions.
- 2 **Provide a limited response to comments followed by Looby/McGraw approval and eliminate the 10 day wait since no public comments were received** Assuming this could be accomplished in two weeks removal activities could begin September 21 1994. This option recognizes the regulatory agencies authority to approve the removal action before it is taken consistent with the proposed language but pushes back on non value added requirements. If we pursue this option it is important that DOE not sign the modified language before implementation.
- 3 **Proceed with DOE's removal action authority independent of the proposed language and without regulators approval** EG&G feels this option is viable given the lack of public comment on the proposed removal action. However to be in compliance with the requirements of the National Contingency Plan we would have to either obtain EPA approval of the SAP or revise the removal action approach to eliminate environmental sampling while preserving waste characterization sampling. If environmental sampling is eliminated it would be impossible to demonstrate the removal of the hot spots and the hot spot impact on risk could not be subtracted from the site risk assessment.

EG&G recommends that DOE clearly assert its removal action authority. The proposed modification to the IAG imposes requirements that are in excess of 40 CFR 300.415 and similar Resource Conservation and Recovery Act requirements. Additionally the regulatory agencies comments on the PAM indicate that while they may have good intentions their implementation does not support expedited response actions.

If DOE/RFDO is concerned about pursuing a potentially contentious action at this time EG&G recommends the second option listed above as the best compromise. This would still establish a basis for DOE's ability to pursue expedited response actions while preserving some regulatory control.

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Please provide timely direction on the requirements that should be followed and accelerated response activities will be planned accordingly Contact Zeke Houk at extension 8714 or Rebecca Hinsch at extension 8509 with any questions or comments

AL Pinnock for SG STIGER

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Orig and 1 cc - J M Roberson

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